

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FIREMAN’S FUND INSURANCE COMPANY,

Plaintiff,

v.

ONEBEACON INSURANCE COMPANY,

Defendant.

Case No. 14-cv-4718 (PGG)
ECF Case

APPENDIX TO PLAINTIFF’S RULE 56.1 STATEMENT OF
UNDISPUTED MATERIAL FACTS

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EXHIBITS TO DECLARATION OF K. BASWELL, DATED MAY 15, 2015

EXHIBIT NO.	DESCRIPTION
1	Complaint, dated June 26, 2014, filed by FFIC in this action
2	Answer and Affirmative Defenses dated August 11, 2014, filed by Defendant OneBeacon Insurance Company (“OneBeacon”) in this action
3	Relevant excerpts from the Deposition of Gary Ibello, dated April 1, 2015 (“Ibello Dep.”)
4	Relevant excerpts from the Deposition of Jeffrey A. Svestka, dated April 2, 2015 (“Svestka Dep.”)
5	Relevant excerpts from the Deposition of Erik Jepsen, dated April 8, 2015 (“Jepsen Dep.”)
6	Relevant excerpts from the Deposition of Madelyn Fagella, dated April 10, 2015 (“Faggella Dep.”)
7	FFIC Policy No. XLX 1481698, issued to Asarco Inc. (“ASARCO”) (“Policy 1”)
8	FFIC Policy No. 1534773, issued to ASARCO (“Policy 2”)
9	FFIC Policy No. 1534774, issued to ASARCO (“Policy 3”)
10	FFIC’s Blanket Excess Liability Policy Form 5902-2-72
11	Broker Covernote dated March 22, 1983, sent from G.L. Hodson & Son, Inc. to FFIC
12	Certificate of Facultative Reinsurance No. FC 4620, issued to FFIC by General Accident Insurance Company of America (the “Facultative Certificate”)
13	ASARCO’s Original Petition, filed in <i>ASARCO LLC, et al. v. Allstate Insurance Company, et al.</i> , Cause No. 01-2680-D (105th Jud. Dist. Nueces County, Tex.), <i>sub nom ASARCO LLC, et al. v. Fireman’s Fund Insurance Company, et al.</i> , dated May 21, 2001
14	ASARCO’s Ninth Amended Petition, filed in <i>ASARCO LLC, et al. v. Fireman’s Fund Insurance Company, et al.</i> , Cause No. 01-2680-D (105th Jud. Dist. Nueces County, Tex.), dated July 1, 2008

EXHIBIT NO.	DESCRIPTION
15	Fireman's Fund's Original Answer, filed in <i>ASARCO LLC, et al. v. Allstate Insurance Company, et al.</i> , Cause No. 01-2680-D (105th Jud. Dist. Nueces County, Tex.), dated August 7, 2001
16	Fireman's Fund's Third Amended Answer, Defenses, Special Exceptions and Counter-Claim for Declaratory Relief, filed in <i>ASARCO LLC, et al. v. Fireman's Fund Insurance Company, et al.</i> , Cause No. 01-2680-D (105th Jud. Dist. Nueces County, Tex.), dated July 21, 2008
17	Fireman's Fund's Motion for Summary Judgment as to Choice of Law, filed in <i>ASARCO LLC, et al. v. Allstate Insurance Company, et al.</i> , Cause No. 01-2680-D (105th Jud. Dist. Nueces County, Tex.), dated December 22, 2003
18	Order dated May 27, 2004, entered in <i>ASARCO LLC, et al. v. Fireman's Fund Insurance Company, et al.</i> , Cause No. 01-2680-D (105th Jud. Dist. Nueces County, Tex.), ruling on Fireman's Fund Motion for Summary Judgment as to Choice of Law
19	Plaintiff's Motion for Partial Summary Judgment as to Fireman's Fund's Asbestosis Exclusion, filed in <i>ASARCO LLC, et al. v. Allstate Insurance Company, et al.</i> , Cause No. 01-2680-D (105th Jud. Dist. Nueces County, Tex.), dated December 22, 2003
20	FFIC's Informational CCR dated July 2, 2004
21	ASARCO's Voluntary Petition filed with the United States Bankruptcy Court for the Southern District of Texas, dated August 9, 2005
22	Memorandum Opinion, Order of Confirmation, and Injunction dated Nov. 13, 2009, entered in <i>In re ASARCO LLC, et al.</i> , Case No. 09-cv-177 (S.D. Tex.)
23	ASARCO Incorporated and Americas Mining Corporation's Seventh Amended Plan of Reorganization for the Debtors Under Chapter 11 of the United States Bankruptcy Code, as Modified on August 20, 2009, August 23, 2009, and August 27, 2009, filed in <i>In re ASARCO LLC, et al.</i> , Case No. 05-21207 (Bankr. S.D. Tex.)
24	Asbestos Personal Injury Settlement Trust Agreement, dated November 30, 2009, as filed in <i>In re ASARCO LLC, et al.</i> , Case No. 09-cv-177 (S.D. Tex.)

EXHIBIT NO.	DESCRIPTION
25	Plaintiff's Motion for Partial Summary Judgment as to Fireman's Fund's Asbestosis Exclusion, filed in <i>ASARCO LLC, et al. v. Fireman's Fund Insurance Company, et al.</i> , Cause No. 01-2680-D (105th Jud. Dist. Nueces County, Tex.), dated April 30, 2008
26	Fireman's Fund's Motion to Reconsider Prior Order for Summary Judgment as to Choice of Law, filed in <i>ASARCO LLC, et al. v. Fireman's Fund Insurance Company, et al.</i> , Cause No. 01-2680-D (105th Jud. Dist. Nueces County, Tex.), dated October 14, 2008
27	Order dated October 31, 2008, entered in <i>ASARCO LLC, et al. v. Fireman's Fund Insurance Company, et al.</i> , Cause No. 01-2680-D (105th Jud. Dist. Nueces County, Tex.), ruling on FFIC's Motion to Reconsider
28	Order Granting Plaintiff's Motion for Partial Summary Judgment on Fireman's Fund's Asbestosis Exclusion, dated March 11, 2009, entered in <i>ASARCO LLC, et al. v. Fireman's Fund Insurance Company, et al.</i> , Cause No. 01-2680-D (105th Jud. Dist. Nueces County, Tex.)
29	Fireman's Fund's Motion for Partial Summary Judgment Seeking a Ruling That It Has No Obligation to Reimburse Plaintiffs for Defense Costs, filed in <i>ASARCO LLC, et al. v. Fireman's Fund Insurance Company, et al.</i> , Cause No. 01-2680-D (105th Jud. Dist. Nueces County, Tex.), dated April 21, 2009
30	Relevant excerpts from the Transcript of Pre-Trial Motions in <i>ASARCO LLC, et al. v. Fireman's Fund Insurance Company, et al.</i> , Cause No. 01-2680-D (105th Jud. Dist. Nueces County, Tex.), dated June 19, 2009
31	Fireman's Fund's Confidential Mediation Statement dated July 29, 2008 ("FFIC 2008 MS"), as sent to David Geronemus by letter dated July 30, 2008
32	ASARCO's Confidential Settlement Mediation Statement dated July 29, 2008 ("ASARCO 2008 MS")
33	Summary of August 5 and 6 Mediation, Memorandum from P. Connally to E. Billeter and D. Kane, dated August 8, 2008
34	FFIC's ASARCO Authority Request dated July 31, 2008 ("FFIC 2008 Authority Request")

EXHIBIT NO.	DESCRIPTION
35	FFIC's Reserve Authority Analysis, Recommendation and Request dated November 25, 2009 ("FFIC 2009 Reserve Authority Analysis"), as attached to email from E. Billeter to G. Ibello, dated November 30, 2009, re: ASARCO Request for Reserve & Settlement Authority
36	FFIC Closing Report dated September 14, 2011 ("FFIC 2011 Closing Report"), as attached to email from D. Kane to CSS and J. Svestka, dated September 14, 2011, re: Closing report 80082797783
37	Summary of April 19, 2010 ASARCO Negotiations, Memorandum from P. Connally to E. Billeter, dated April 20, 2010
38	Settlement Agreement between the ASARCO Trust and FFIC, executed in June 2011
39	Actuarial Documentation for Fireman's Fund Gross Ultimate Loss Estimate ("Actuarial Documentation")
40	FFIC Invoice No. 66163 dated January 16, 2013
41	FFIC Invoice No. 66172 dated January 16, 2013
42	Letter from E. Jepsen to J. Svestka, dated April 18, 2014
43	FFIC's Special Settlement Request / Closing Report dated January 17, 2013